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**REPORT TO THE COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE**

72-0111

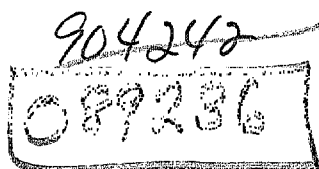
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**Federally Owned Submarginal Land
Within The Bad River Reservation
In Wisconsin Proposed To Be Held
In Trust For
The Bad River Community**

B-147652
B-147655

Bureau of Indian Affairs
Department of the Interior

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**



MAY 23, 1972



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-147652

B-147655

C1 + R

1 Dear Mr. Chairman:

In accordance with your request of April 1, 1971, and with subsequent discussions with your office, this is our report containing information on federally owned submarginal land on the Bad River Reservation in Wisconsin proposed to be held in trust for the Bad River Community. Our comments on Senate bill 723, which would convey the right, title, and interest in this land to the Indians, are being furnished separately.

The information in this report updates certain factual data contained in our 1962 report on the review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, Aug. 13, 1962).

We plan to begin updating the information on submarginal land proposed to be conveyed to other Indian tribes and groups as we obtain the comments of the Bureau of Indian Affairs on specific bills providing for such conveyances.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

James B. Stacks

Comptroller General
of the United States

C1 The Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs *5/900*
United States Senate

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office

COMPTROLLER GENERAL'S REPORT
TO THE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS
UNITED STATES SENATE

FEDERALLY OWNED SUBMARGINAL LAND
WITHIN THE BAD RIVER RESERVATION
IN WISCONSIN PROPOSED TO BE HELD
IN TRUST FOR THE BAD RIVER COMMUNITY
Bureau of Indian Affairs 6
Department of the Interior 33
B-147652, B-147655

D I G E S T

WHY THE REVIEW WAS MADE

Under proposed legislation, the Government's right, title, and interest in 13,069 acres of submarginal land on the Bad River Reservation in Wisconsin would be conveyed to the Bad River Community (hereinafter referred to as the tribe) and the title would be held in trust by the U.S. Government.

The Chairman of the Senate Committee on Interior and Insular Affairs, in a letter dated April 1, 1971, requested the General Accounting Office (GAO) to

- provide the Committee with an updated version of its 1962 review of proposed legislation for conveyance of submarginal land administered by the Bureau of Indian Affairs (BIA) to certain Indian tribes and groups and
- examine into how conveyance of the land in question can contribute to the social and economic advancement of the Indian groups involved.

FINDINGS AND CONCLUSIONS

The submarginal land probably comprises 13,229 acres, rather than 13,069 acres as stated in the proposed legislation. (See p. 4.)

The Government originally paid \$32,093 for the land. On the basis of BIA's estimate that the 12,861 acres of the forest and grassland were worth about \$100 an acre in February 1971, the total submarginal land would be worth about \$1.3 million. No value was assigned to the 368 acres of nonproductive land which included roadways and swamp land. (See p. 5.)

Improvements on the submarginal land consist of three houses having a combined value of about \$1,000. Between 1962 and June 30, 1971, BIA spent about \$20,800 for forestry management on the land. (See pp. 5 and 6.)

From the time the submarginal land was acquired through the end of calendar year 1970, BIA received total revenues of \$57,250 from the land, of which \$47,574 came from the issuance of timber-cutting permits. These revenues were deposited into the U.S. Treasury as miscellaneous receipts. (See p. 6.)

A BIA official and the Department of Agriculture's District Conservationist stated that the submarginal land was suited best for forestry. (See p. 9.) Timber revenues of about \$15,000 and \$20,000 are expected during calendar years 1972 and 1973, respectively. (See p. 6.)

If title to the land were transferred to the tribe, harvesting of timber would continue under BIA management. The revenues, less 5 or 10 percent to cover BIA's administrative costs, would accrue to the tribe rather than to the Government. (See p. 9.)

A mineral resources study report, published in 1964, stated that there were some sand and gravel and possible copper deposits on the reservation. The report concluded, however, that any efforts to improve the economic well-being of the tribe should be directed toward nonmineral industries. (See p. 9.)

No plans had been developed for the use of the submarginal land. The tribal chairman stated that the tribe would develop a plan after it obtained title to the land. (See p. 9.)

Because the tribe had not prepared any plans for use of the submarginal land, GAO could not ascertain specifically how conveyance of the land could contribute to the tribe's social and economic advancement. (See p. 11.)

CHAPTER 1

INTRODUCTION AND SCOPE

Pursuant to a request dated April 1, 1971, from the Chairman of the Senate Committee on Interior and Insular Affairs (see app. I) and in accordance with subsequent discussions with his office, we have obtained information to update certain factual data contained in our August 1962 report on submarginal land administered by the Bureau of Indian Affairs, Department of the Interior.¹ That report was submitted to the House and Senate Committees on Interior and Insular Affairs.

Under proposed legislation, 13,069 acres of submarginal land on the Bad River Reservation in Wisconsin would be conveyed to the Bad River Community and the title would be held in trust by the U.S. Government. This report updates that section (pp. 40 to 44) of our 1962 report which pertained to the submarginal land.

To obtain the updated information, we reviewed pertinent records and interviewed cognizant officials and representatives of BIA's central office in Washington, D.C.; BIA's Area Office in Minneapolis, Minnesota; BIA's Great Lakes Agency Office in Ashland, Wisconsin; and the tribe. We interviewed also representatives of the Department of Commerce's Economic Development Administration, the Indian Claims Commission, the Department of Agriculture's District Conservationist, and the Ashland County (Wisconsin) clerk to obtain information on certain matters within their areas of expertise.

BAD RIVER INDIAN RESERVATION

The Bad River Reservation, located in Ashland and Iron counties in north-central Wisconsin and bounded on the

¹"Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by Bureau of Indian Affairs, Department of the Interior" (B-147652, B-147655, Aug. 13, 1962).

north by Lake Superior, was established on September 30, 1854, by a treaty (10 Stat. 1109) between the U.S. Government and the tribe. The reservation encompasses an area of about 124,335 acres, including 196 acres of fishing grounds on Madeline Island located in Lake Superior. Through allotment acts and subsequent Government-supervised land sales, Indian ownership of the lands has been reduced significantly.

The tribe operates on the Bad River Reservation under a constitution approved by the Department of the Interior on June 20, 1936, as amended on December 1, 1942, and on October 31, 1944. A corporate charter was issued by the Department and was ratified by the tribal members on May 21, 1938. The tribe was organized for the common welfare of its members to conserve and develop natural resources, to form business and other organizations, to enjoy certain rights of home rule, and to provide its members with education in vocational and trade schools and in institutions of higher learning.

BIA estimated that as of 1967 there were 1,259 enrolled members of the tribe. The estimate did not indicate, however, how many members lived on the reservation. A report prepared by BIA's Minneapolis Area Office on the basis of March 1971 labor force data showed that 476 Indians lived on the reservation.

As of June 30, 1971, ownership of the land within the original reservation boundaries was as follows:

<u>Indian land</u>	<u>Acres</u>
Allotted by the tribe to individual Indians	32,724
Tribal (title held by Government in trust for the tribe)	<u>8,816</u>
	41,540
 <u>Other land</u>	
Submarginal, Government-owned	13,229 ^a
Great Lakes Agency Office--administrative reserve of BIA	41
Private ownership	<u>69,525</u>
 Total	 <u>124,335</u>

^aSenate bill 723, 92d Congress, proposes that approximately 13,069 acres of submarginal land be transferred to the tribe; however, our 1962 report indicated that there were probably 13,229 acres of submarginal land within the reservation boundaries. When originally purchased one tract of land was considered to be 125.27 acres, but, by its legal description, the tract would seem to contain 285.27 acres, a difference of 160 acres.

CHAPTER 2

INFORMATION ON SUBMARGINAL AND TRIBAL LAND

SUBMARGINAL LAND

The submarginal land consists of 116 tracts scattered throughout the reservation. These tracts are located in Ashland County and range in size from 10 to 1,093 acres.

The land was acquired by the U.S. Government under the provisions of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781). According to BIA records the Government paid \$32,093 for this land.

As of June 30, 1971, BIA's Great Lakes Agency Office forester classified the submarginal land as follows:

<u>Classification</u>	<u>Acres</u>
Forest	12,470
Grass	391
Nonproductive	<u>368</u>
Total	<u>13,229</u>

In February 1971, in response to BIA central office inquiries regarding various characteristics of submarginal lands, BIA's Minneapolis Area Office roughly estimated the average value of the forest and grassland to be \$100 an acre. No value was assigned to the nonproductive acreage. On this basis the submarginal land, exclusive of the non-productive acreage, would have an estimated value of about \$1.3 million.

In 1962 we reported that seven homes were located on the submarginal land. The Great Lakes Agency Office realty officer has informed us that, since that time, four homes have been either razed or removed and that the remaining three homes have a combined value of not more than \$1,000.

Two of the homes are occupied by Indian families, and one is vacant. One home is occupied by a Bad River tribe family, and the other is occupied, under a BIA permit, by a family of another tribe.

Between 1960 and September 1971, BIA expended about \$20,800 for forestry management on the submarginal land. Of this amount, \$17,100 was spent on timber stand improvement, which included removal of weed-tree species, spraying to control brush, and cutting of overmature timber. The remaining \$3,700 was spent for reforestation of the land after fires or timber harvests.

BIA supervises timber cutting on the submarginal land in accordance with a sustained-yield plan under which the productive capacity of the land is maintained. Also, under Federal regulations applicable to Indian forest lands (25 CFR 141.20), Indians may cut, for their personal use only, designated types of timber on unallotted lands without permits and without charge. BIA's Minneapolis Area Office forester estimated that Indians removed, without charge, about 20,000 board feet of timber valued at about \$60 from the submarginal land for their own use during calendar year 1971.

From the time the submarginal land was acquired through the end of calendar year 1970, BIA received total revenues of \$57,250 from the submarginal land. Timber-harvesting permits accounted for \$47,574 of the total; a pipeline right-of-way accounted for \$8,358; sand and gravel permits accounted for \$1,084; and miscellaneous rental sources accounted for about \$234.

These revenues were deposited into the U.S. Treasury as miscellaneous receipts. Timber-harvesting revenues, which have been the primary source of income, have increased steadily in recent years--from \$3,102 in 1965 to \$14,977 in 1970. The Great Lakes Agency Office forester estimated that timber revenues would increase to \$15,000 and \$20,000, in calendar years 1972 and 1973, respectively.

TRIBAL LAND

In 1962 we reported that the tribe owned 6,741 acres of land and that individual Indians owned 35,065 acres. Since

that time some significant changes have occurred in both tribe and individual Indian land ownership. The amount of land owned by the tribe increased by 2,075 acres as a result of (1) the purchase of 2,134 acres from various Indians and non-Indians and (2) a land-exchange transaction wherein, as compensation for differences in land values, the tribe gave up 59 acres more than it received.

The amount of land owned by individual Indians decreased by 2,341 acres as a result of (1) the sale of 1,394 acres to the tribe (included in the 2,134 acres purchased by the tribe), (2) the sale of 1,242 acres to individuals who were not members of the tribe, and (3) acquisition of 295 acres by individual members of the tribe.

The BIA Great Lakes Agency Office forester classified the land owned by the tribe as of June 30, 1971, as follows:

<u>Classification</u>	<u>Acres</u>
Forest	3,142
Grass and/or brush	1,226
Nonproductive and/or forest	4,374
Water or townsite	<u>74</u>
Total	<u>8,816</u>

Since 1962 numerous improvements have been constructed on tribal land. The Department of Housing and Urban Development financed 46 public housing units which were constructed at a cost of about \$663,300. About \$25,000 was spent to improve 30 existing homes under BIA's housing improvement program which was begun in 1970. The Indian Health Service of the Department of Health, Education, and Welfare has spent about \$193,600 for water and sewer improvements.

Since 1962 BIA has constructed about 16 miles of roads on the reservation. About 9 miles of these roads border the submarginal land.

In October 1964 BIA's Great Lakes Agency Office prepared a 10-year economic program for the Bad River Reservation. The plan envisioned the development of new wild-rice beds having mechanized-harvesting capability, a youth

summer camp, a commercial trailer park and picnic area, a marina, a small industry, and an authentic Indian village complex. The plan also included a land acquisition program and a tree-planting and timber-stand-improvement program. The estimated cost of developing these projects at that time was \$1.7 million.

The BIA Great Lakes Agency Office realty officer informed us that the plan did not contemplate the location of any of the proposed projects on the submarginal land because the tribe did not own the submarginal land and because the prospects of its acquiring the land were not certain.

In 1967 the tribe began leasing home and business sites on the shore of Madeline Island in Lake Superior, and in fiscal year 1971 it realized \$6,065 from such leases. Through the leasing of mainland sites, \$255 additional was realized.

In April 1971 the Bad River tribal council updated the 1964 economic program. The updated program contemplated the development of certain industrial, commercial, and tourism projects on tribal lands. At the time of our review, the tribe had passed various resolutions requesting BIA to provide feasibility studies for a marina and a fish hatchery. A representative from the Economic Development Administration, Department of Commerce, informed us that on October 28, 1971, the tribe applied for assistance to fund development of an industrial park (\$583,000) and an arts and craft shop and a parking lot (\$97,000).

PLANNED AND POTENTIAL USES OF SUBMARGINAL LAND

In response to a BIA central office questionnaire pertaining to the submarginal land, the Great Lakes Agency Office reported in February 1971 that the tribe would assume the responsibility for cultivating and harvesting the timber resources if title to the land were received. The Great Lakes Agency Office reported also that the tribe would consider (1) developing a 500-acre industrial site which would include a shake-shingle plant, (2) establishing a wildlife refuge, (3) initiating a beef cattle-raising business, and (4) leasing homesites to Indians.

An official of the tribe told us that plans had not been developed for the use of submarginal land. The Great Lakes Agency Office realty officer stated that the lack of title to the submarginal land deterred individual members of the tribe from placing permanent improvements on the submarginal land. The tribal chairman stated that first the tribe wanted title to the land and that then it would develop a plan.

A BIA official and the Department of Agriculture's District Conservationist stated that the land was suited best for forestry. The BIA official stated that timber harvesting would continue under BIA management if title to the land were transferred to the tribe. These revenues, less 5 or 10 percent which BIA would charge to cover its administrative costs, and the revenues from other activities would accrue to the tribe rather than to the U.S. Government.

WATER AND MINERAL RESOURCES

The BIA Great Lakes Agency Office realty officer told us that, although about 3-1/2 miles of submarginal land bordered navigable streams, only about half of the frontage was suitable for homesites because the remainder was either inaccessible or often flooded.

In our 1962 report we stated that a U.S. Geological Survey report, dated July 28, 1960, showed that there were no known prospectively valuable mineral deposits on the Bad River Reservation. The Survey report indicated that small scattered deposits of copper existed but that these deposits were not considered to have commercial value.

On April 15, 1964, a mineral resources study report was published by a private corporation under contract with BIA. The report stated that there were some possible copper deposits near the southeast corner of the reservation and some sand and gravel deposits in the eastern and southeastern portions. The report concluded, however, that any efforts to improve the economic well-being of the tribe should be directed to fields other than mineral industries.

TRIBAL FINANCIAL AND OTHER RESOURCES

BIA and tribal officials told us at the time of our review that no data was available regarding either tribal liabilities or current valuations of tribal assets.

As of June 30, 1971, the tribe owned 8,816 acres of land, including 196 acres on Madeline Island in Lake Superior. At the time of our review, no recent reliable information was available at the Minneapolis Area Office, the Great Lakes Agency Office, or the tribal offices as to the current value of the land owned by the tribe. On the basis of the following information, however, we were able to roughly compute the value of the tribal land to be about \$300,000.

- In August 1966 a BIA appraiser estimated the value of the Madeline Island acreage to be about \$63,500.
- The 1-1/2 miles of lakeshore frontage of the Madeline Island acreage was estimated to be worth about \$1 a foot, or \$7,900 in November 1971 by the Great Lakes Agency Office realty officer.
- Several appraisal reports prepared in August and September 1971 in conjunction with proposed supervised land sales of individual Indian lands on the mainland portion of the reservation indicated a general value, excluding the value of standing timber, of about \$10 an acre, or about \$86,200 for the 8,620 acres of mainland acreage.
- Applying the standing timber values used in recent timber sales to BIA's estimates of quantities of the various species on the tribal land, we computed the value of standing timber to be about \$142,600.

Since 1962 the tribe has acquired title to a former school building which was donated to the tribe by a religious group. A \$35,00 grant was obtained from a private foundation to replace the furnace and to repair the water and sewer facilities for the former school building which now is being used as a tribal community building. The Great Lakes Agency Office realty officer stated that the building has not been appraised.

A representative of the Indian Claims Commission informed us that the tribe was a party to several claims currently pending before the Commission.

SUMMARY

If trust title to the submarginal land were conveyed to the tribe, the cultivation and harvesting of timber resources on the submarginal land would continue and the revenues from timber harvesting, less BIA's administrative charge, and from other activities would accrue to the tribe instead of to the Government. The BIA Great Lakes Agency Office forester estimated that timber revenues of about \$15,000 and \$20,000 were expected during calendar years 1972 and 1973, respectively.

An official of the tribe said that plans had not been developed for use of the submarginal land because the tribe did not have title to the land. The Great Lakes Agency Office reported, however, that the tribe would consider several specific projects if it acquired trust title to the land.

Because the tribe has not prepared any plans for use of the submarginal land, we are unable to specifically ascertain how conveyance of the land can contribute to the tribe's social and economic advancement.

HENRY M. JACKSON, WASH., CHAIRMAN
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ALAN BIBLE, NEV.
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JERRY T. VERKLER, STAFF DIRECTOR

United States Senate

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
WASHINGTON, D.C. 20510

April 1, 1971

Honorable Elmer B. Staats
Comptroller General of the United States
Washington, D. C.

Dear Elmer:

This letter is in reference to the Comptroller General's Report on Submarginal Land which was submitted to the House and Senate Committees on Interior and Insular Affairs on August 13, 1962.

Recently, Senator Gordon Allott, ranking minority member of the Committee, and I introduced two bills S. 1217 and S. 1230 to convey beneficial interest in submarginal lands to the Indians on the White Earth Reservation in Minnesota and the Stockbridge Munsee Indian Community in Wisconsin, respectively, with title to be held in trust by the United States Government. The bills were based on Executive Communications transmitted to the Congress by the Administration.

Hearings were held on the proposed legislation on March 26, 1971, with testimony being presented by Administration and tribal officials. The proposed legislation was discussed before the full Committee in executive session on March 31, 1971. At that time, Senator Allott moved that the two bills be tabled until such time as the Comptroller General could present the Committee with an updated revision of the 1962 report.

Please consider this letter an official request to have your staff begin an updating of the document in question. Also, you or representatives from your office may find it useful to discuss this matter with Mr. Jerry T. Verkler, Staff Director of the Committee.

In preparing for the revision, I believe it is important for you to give recognition to the fact that both

APPENDIX I

Honorable Elmer B. Staats

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April 1, 1971

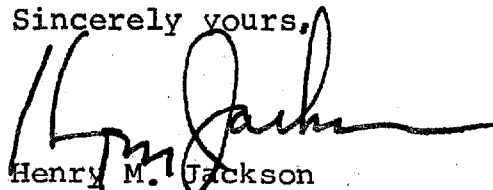
the Administration and Congress have, in a sense, repudiated the so-called "termination" policies of the 1950's. President Nixon's Indian Message to Congress of July 8, 1970, clearly states a policy of "Self-Determination, without Termination." Also, during the past Congress, a number of concurrent resolutions repudiating termination as a policy in the Indian field were introduced in both Houses of Congress. The multi-agency involvement in Indian affairs with identifiable Federal expenditures in excess of \$625 million in the 1971 fiscal year is further evidence that we view development of the human and natural resources of our Indian citizens as a more realistic approach to this complex problem.

I am hopeful that the updating of your 1962 Report on Submarginal Lands will be undertaken within the more positive climate of Indian affairs today, and that your staff will examine closely how the conveyance of the lands in question to Indian tribes can contribute to their social and economic advancement.

Enclosed are copies of S. 1217 and S. 1230 currently pending before our Committee. Will you please review these bills now and submit an immediate report to the Committee on them to expedite our consideration of this legislation.

With every good wish,

Sincerely yours,



Henry M. Jackson
Chairman

HMJ:fg
Enclosures

GAO note: Copies of S. 1217 and S. 1230 have not been reproduced herein.